

### **REMARKS**

Claims 3, 18-25 and 32-67 are pending in the above-captioned patent application after this amendment. Claims 16, 17 and 31 have been withdrawn from consideration. Claims 18-25 have been allowed. Claims 7-11 and 30 were found to contain allowable subject matter. Claims 1-6, 12-15, 26-29 were rejected. Claim 3 has been amended to include the limitations of its base claim, claims 1-2, 4-15 and 26-30 have been canceled without prejudice and claims 32-67 have been added by this amendment for the purpose of expediting the patent application process in a manner consistent with the goals of the Patent Office pursuant to 65 Fed. Reg. 54603 (September 8, 2000), even though the applicants believe that the previously pending claims were allowable.

Support for the amendments to claim 3 and the new claims can be found throughout the originally filed application, including the originally filed claims, the drawings and the specification. More specifically, new claim 32 is based on original claim 7 rewritten in independent form. Therefore, new claim 32 is not narrower in scope than previously pending claim 7. Claim 7 was found to contain patentable subject matter. Thus, claim 32 is believed to be patentable. Because new claim 33 depends from claim 32, it is also believed to be patentable.

New claim 34 is based on original claim 9 rewritten in independent form. Therefore, new claim 34 is not narrower in scope than previously pending claim 9. Claim 9 was found to contain patentable subject matter. Thus, claim 34 is believed to be patentable. Because new claim 35 depends from claim 34, it is likewise considered to be patentable.

New claim 36 is based on original claim 11 rewritten in independent form. Therefore, new claim 36 is not narrower in scope than previously pending claim 11. Claim 11 was found to contain patentable subject matter. Thus, claim 36 is believed to be patentable.

New claim 37 is based on original claim 30 rewritten in independent form. Therefore, new claim 37 is not narrower in scope than previously pending claim 30. Claim 30 was found to contain patentable subject matter. Thus, claim 37 is believed to be patentable.

Additionally, support for new claims 38-67 can be found at least in claims 1-16 and 26-30, in Figures 1, 2 and 4A-8B, and in the specification at page 4, lines 10-26, at page 8, lines 18-26, and at page 8, line 31 through page 13, line 26.

No new matter is believed to have been added by this amendment. Consideration of the pending application is respectfully requested.

#### **Interview Summary**

On June 10, 2003, attorney for the Applicants, James P. Broder, Reg. No. 43,514, conducted a telephonic interview with the Examiner, Stephanie N. Harris, and Primary Examiner Barfield. Prior to the interview, a draft Amendment and Response was forwarded by facsimile to Examiner Harris for review. During the interview, the language of pending independent claims 3, 38, 52 and 65 was discussed. Although language was generally discussed that would potentially place the claims in condition for allowance, no specific agreement was reached regarding the claim language. The Applicants and their attorneys wish to thank the Examiners for their time and assistance during the interview.

#### **Rejections Under 35 U.S.C. § 103**

Claims 1-6, 12-15, 26-29 have been rejected under 35 U.S.C. § 103 as being unpatentable over Gillotti (USPN 5,762,402). As provided above, the Applicants have canceled claims 1-2, 4-6, 12-15 and 26-29 without prejudice by this amendment. Therefore, the rejection of the Patent Office regarding claims 1-2, 4-6, 12-15 and 26-29 is believed to be moot. However, the Applicants have traversed claim 3, which has been amended to include the limitations of its base claim. The Applicants submit that the cited reference does not teach or suggest the features of amended claim 3. Thus, the rejection should be withdrawn.

For example, Gillotti is directed toward a massage chair that includes "U-shaped rails 46 arranged along opposite sides" of a sliding panel 20. (Col. 5, lines 65-67). Further, the massage chair taught by Gillotti includes "U-shaped rails 77 arranged along opposite sides" of a hinged lower panel 21. (Col. 5, line 67 through Col. 6, line 1). The U-shaped rails 77 are positioned within U-shaped rails 46 so that upper sliding panel 20 is

slidable along hinged lower panel 21. (Col. 5, lines 2-3). Gillotti does not teach or suggest a guide rail that has a substantially square cross-section. In fact, Gillotti expressly states that the rails 46, 77 are "U-shaped", which would preclude them from having a substantially square cross-sectional shape. (See Figures 1, 2 and 6).

In contrast to Gillotti, amended claim 3 is directed to a massage chair that requires "a seat; a front upper support assembly coupled to the seat; a first support surface; and a first positioning mechanism that movably secures the first support surface to the front upper support assembly, the first positioning mechanism including (i) a guide rail that is coupled to the first support surface, the guide rail having a substantially square cross-section, and (ii) a clamping assembly that is coupled to the front upper support assembly, the clamping assembly selectively moving between a locked position that inhibits movement of the first support surface relative to the clamping assembly, and an unlocked position that allows rotation of the first support surface relative to front upper support assembly and sliding of the first support surface relative to the front upper support assembly." These features are not taught or suggested by Gillotti. Therefore, claim 3, as amended, is believed to be patentable, and the rejection by the Patent Office under 35 U.S.C. § 103 should be withdrawn.

#### **Allowable Subject Matter/New Claims**

Claims 18-25 are allowed. Claims 7, 8, 9, 10, 11, and 30 were found to contain allowable subject matter. New claim 32 is based on original claim 7 rewritten in independent form. Thus, claim 32 is believed to be patentable. Because new claim 33 depends from claim 32, it is also believed to be patentable.

New claim 34 is based on original claim 9 rewritten in independent form. Thus, claim 34 is believed to be patentable. Because new claim 35 depends from claim 34, it is likewise considered to be patentable.

New claim 36 is based on original claim 11 rewritten in independent form. Thus, claim 36 is believed to be patentable.

New claim 37 is based on original claim 30 rewritten in independent form. Thus, claim 37 is believed to be patentable.

Further, new claims 38-67 have been added by this amendment. New claims 38-67 are of a slightly different scope than the previously pending claims. However, in view of the cited reference, claims 38-67 are believed to be patentable.

In addition to the analysis of Gillotti provided above, the massage chair in Gillotti includes a pair of L-shaped arms 34 (which the Patent Office is equating to the guide receivers 98, 99 of the present invention) that are attached to the bottom surface of a panel 33. The distal ends of the L-shaped arms 34 are held in a pair of clamps 35, which are attached to a bar 36, which is in turn attached to the top surface of the upper sliding panel 20. (Col. 4, lines 52-56). The U-shaped rails 46 (which the Patent Office is equating to the guide rail 24 of the present invention) are positioned below the L-shaped arms 34, and not between the L-shaped arms 34. Stated another way, Gillotti does not teach or suggest having a guide rail that is positioned between two guide receivers that move between a locked and an unlocked position.

Additionally, Gillotti requires a plurality of locking arms 22 that are used to inhibit and/or allow movement of the upper sliding panel 20. (Col. 4, 26-29). The locking arms 22 do not allow rotation of the upper sliding panel 20. (Figure 6). Moreover, Gillotti requires a plurality of levers 51 that allow the clamp 35 to be tightened or loosened around a respective L-shaped arm 34. (Col. 6, lines 21-23). In other words, Gillotti does not teach or suggest the use of a single locking lever that moves a clamping assembly between a locked position and an unlocked position that allows rotation and sliding of a first support surface. (Figures 1 and 6).

In contrast to Gillotti, new claim 38 is directed toward a massage chair that includes "a seat; a front upper support assembly coupled to the seat; a first support surface; and a first positioning mechanism that movably secures the first support surface to the front upper support assembly, the first positioning mechanism including (i) a guide rail that is coupled to the first support surface, and (ii) a clamping assembly that is coupled to the front upper support assembly, the clamping assembly including two guide receivers that receive the guide rail, the guide receivers being positioned on substantially opposite sides of the guide rail, the guide receivers selectively moving between a locked position that inhibits movement of the first support surface relative to

a portion of the clamping assembly, and an unlocked position that allows rotation of the first support surface relative to the front upper support assembly and sliding of the first support surface relative to the guide receivers.” These features are not taught or suggested by the cited reference. Thus, claim 38 is considered to be patentable. Because claims 39-51 depend directly or indirectly from claim 38, they are likewise believed to be patentable.

New claim 52 requires “a seat; a front upper support assembly coupled to the seat; a first support surface having a longitudinal axis; and a first positioning mechanism that movably secures the first support surface to the front upper support assembly, the first positioning mechanism including (i) a guide rail that is coupled to the first support surface, the guide rail being positioned substantially along the longitudinal axis of the first support surface, and (ii) a clamping assembly that is coupled to the front upper support assembly, the clamping assembly including a single locking lever, wherein movement of the locking lever moves the clamping assembly between a locked position that inhibits movement of the first support surface relative to the clamping assembly, and an unlocked position that allows rotation of the first support surface relative to front upper support assembly and sliding of the first support surface relative to the front upper support assembly.” These features are not taught or suggested by the cited reference. Thus, claim 52 is considered to be patentable. Because claims 53-64 depend directly or indirectly from claim 52, they are likewise believed to be patentable.

New claim 65 is directed toward a “method for adjusting the position of a first support surface for a massage chair, the method comprising the steps of: positioning a guide rail substantially along a longitudinal axis of the first support surface; and moving a single locking lever to move a clamping assembly having a rotational axis between a locked position that inhibits movement of the guide rail and the first support surface relative to the clamping assembly, and an unlocked position that allows rotation of the guide rail and the first support surface around the rotational axis and movement of the guide rail and the first support surface relative to the clamping assembly along the longitudinal axis.” These steps are not taught or suggested by the cited reference.

Thus, claim 65 is considered to be patentable. Because claims 66-67 depend directly or indirectly from claim 65, they are likewise believed to be patentable.

### **Remaining References**

The references cited by the Examiner, but not relied on for the rejection of claims, have been noted. The remaining references are no more pertinent than the applied references, therefore, a detailed discussion of these remaining references is deemed unnecessary for a full and complete response to the Office Action.

### **Conclusion**

In conclusion, Applicant respectfully asserts that claims 3, 18-25 and 32-67 are patentable for the reasons set forth above, and that the application is now in a condition for allowance. Accordingly, an early notice of allowance is respectfully requested. The Examiner is requested to call the undersigned at 858-456-1951 for any reason that would advance the instant application to issue.

Dated this the 11th day of June, 2003.

Respectfully submitted,



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